

A Performance Audit Of School Boards And The Open Meetings Act

September 21, 2005

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Main Conclusions

- School boards closed meetings are not complying with the law.
- Interpretations of the Open Meetings Act varies.

School Boards Are Not Following Closed Meeting Requirements

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Closed Meeting Minutes Are Insufficient

In most instances, records were insufficient to assess the validity of closed meeting discussions. Specifically, we found. . .

Adequate Records Of Closed Meetings Are Not Kept

School District	Closed Mtg. Minutes Comply with Law	Detail of Minutes
Jordan	No	No closed meeting minutes kept
Nebo	No	No closed meeting minutes kept
N. Sanpete	No	No closed meeting minutes kept
Iron Co.	No	No closed meeting minutes kept
Salt Lake	No	Summary- Insufficient detail
Granite	No	Summary- Insufficient detail
Provo	No	Summary- Insufficient detail
Washington Co.	No	Summary- Insufficient detail
Carbon	Yes	Detailed minutes kept
Tooele Co.	Yes	Detailed- Records and keeps summary minutes.

Closed Meeting Minutes Are Not Being Reviewed

- School boards generally do not review or approve their closed meeting minutes.
- The two school boards, whose minutes were in compliance with the law, had their board presidents approve the closed meeting minutes.

School Boards Frequently Meet In Closed Meetings

- When compared to other public bodies, school boards meet frequently in closed meetings.
- On average, school boards have at least one closed meeting a month.

Inappropriate Discussions Occur In Closed Meetings

- A significant number of inappropriate discussions were noted for most school boards who keep closed meeting minutes.
- The extent of the problem is unknown with school boards who do not keep closed meeting minutes.

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Practice Of “Opening The Door” Is Concerning

District officials in four school districts reported that if something inappropriate is discussed in a closed meeting they physically open the door.

Training Has Not Been Adequate

- District officials reported that training from the USOE and the USBA has been insufficient and inconsistent.
- District officials report that training has suggested that summary minutes for closed meetings are acceptable and even preferred.

Closed Meeting Reasons And Procedures Are Specified In Law

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***Utah Code* 52-4-5 “Purposes Of Closed Meetings”**

- Information concerning an individual,
- collective bargaining,
- litigation,
- acquisition or sale of real property,
- deployment of security, and
- criminal misconduct

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***Utah Code* 52-4-7.5 “Record Of Closed Meetings”**

- Signed statement by presiding officer affirming that the sole purpose for closing the meeting was to discuss an individual or deployment of security.
- If closed meeting is for any other purpose, then the public body shall either tape record the closed portion of the meeting or keep detailed written minutes that disclose the content of the closed portion of the meeting.

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***Utah Code* 52-4-10 “Action Challenging Closed Meeting”**

- (1)...., in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:
 - (a) review the tape recording or written minutes of the closed meeting in camera; and
 - (b) decide the legality of the closed meeting.

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Interpretations Of The Open Meetings Act Varies

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Clarification Of Statute Might Be Needed

- Law requires detailed minutes, but the word “detailed” is being interpreted differently.
- Because of varying interpretations, the Legislature may want to revisit the Open Meetings Act.

Methods To Strengthen Compliance May Be Needed

The Legislature could consider:

- Code clarifications,
- Strengthening of sanctions to compel compliance, and
- Mandatory training for public bodies.

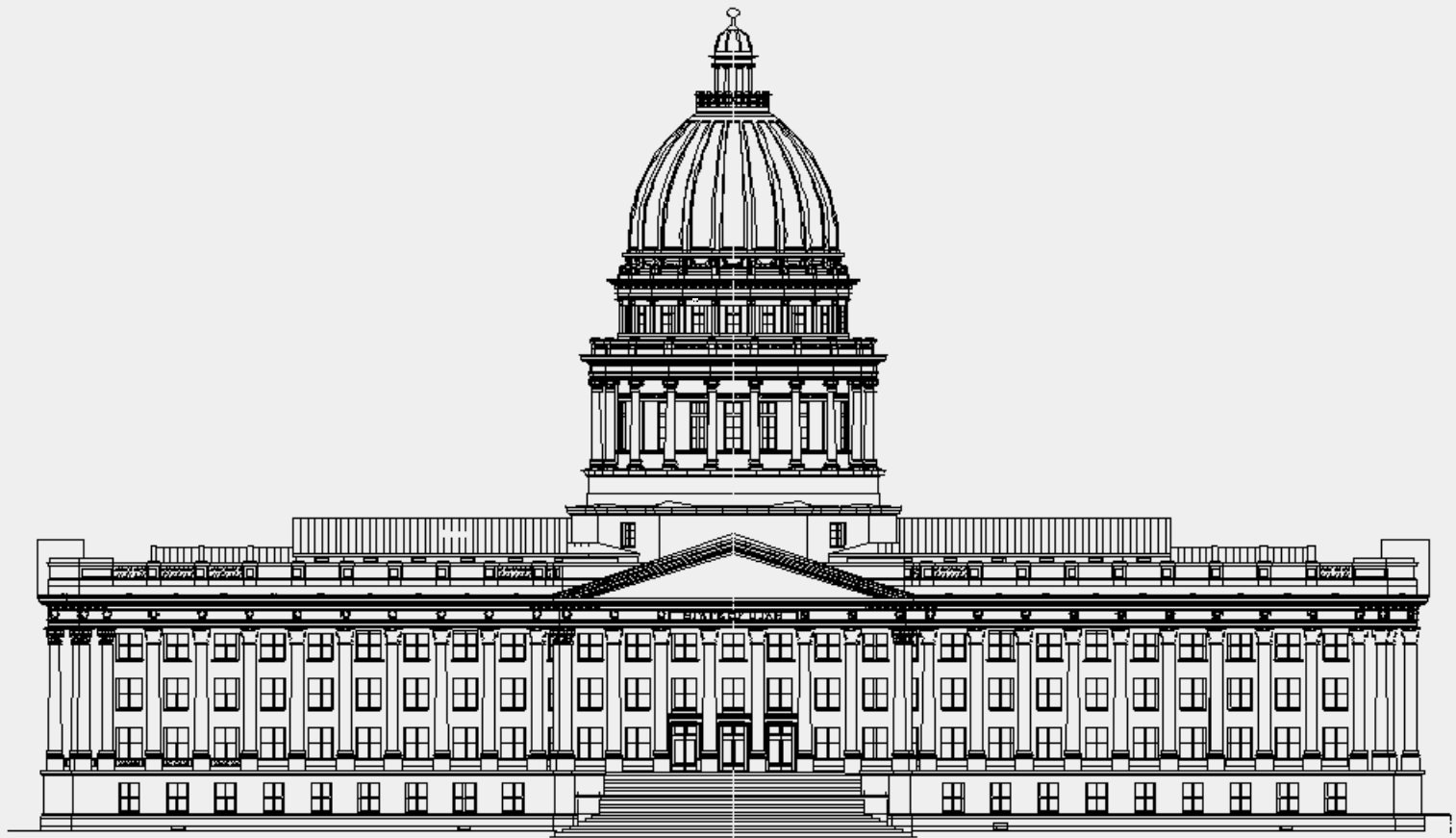
Recommendations

1. The Legislature should consider revising **Utah Code** 52-4-7.5 (2)(a), to clarify the need for closed meeting minutes to contain detailed, substantive information on all matters discussed.
2. The Legislature should consider studying methods to gain greater compliance with the Open Meetings Act.
3. The Legislature should consider requiring public bodies or the presiding officer of a public body to review and approve closed meeting minutes.

Recommendations (cont.)

4. The Utah Attorney General should issue a directive to all public bodies subject to the Open Meetings Act clearly stating the legal requirements for public bodies.
5. The Utah State Office of Education should provide clear and consistent training on an annual basis to school district superintendents and business administrators on the provisions of the Open Meetings Act.

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